CHARTERED ACCOUNTANTS
AUSTRALIA + NEW ZEALAND

GREENTAYLOR
PARTNERS

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Quarterly Newsletter

Green Taylor Partners

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GTP Christmas Message

The team at Green Taylor Partners send a festive greeting to thank all of our clients for the opportunity to work with you.

Wishing you and your family peace, health, happiness and prosperity in the coming New Year.

Please note our office will be closed from 5pm Monday the 23rd of December 2019 and will reopen at 8.30am on Monday the 6th of January 2020.

If you have an urgent matter you can still contact the office and leave a message as the answering machine will be monitored.

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Superannuation Amnesty

David Hadley

The Government are proposing to resurrect the Superannuation Guarantee (SG) amnesty giving employers that have fallen behind with their SG obligations the ability to "self-correct." This time however, the incentive of the amnesty is strengthened by harsh penalties for those that fail to take action.

Originally announced in May 2018 and running between 24 May 2018 until 23 May 2019, the amnesty failed to secure its passage through Parliament after facing a backlash from those that believed the amnesty was too lenient on recalcitrant employers.

Since the original announcement, the Government reports that over 7,000 employers have come forward to voluntarily disclose historical unpaid super. The SG tax gap is estimated at around $2.85 billion in late or missing SG payments.

When does the amnesty apply?

Legislation enabling the amnesty is currently before Parliament **and if enacted**, will apply from the date of the original amnesty announcement, 24 May 2018, until 6 months after the legislation has passed Parliament. Employers will have this period to voluntarily disclose underpaid or unpaid SG payment to the Commissioner of Taxation.

The amnesty applies to historical underpaid or unpaid SG for any period up to the March 2018 quarter.

Qualifying for the amnesty

To qualify for the amnesty, employers must disclose the outstanding SG to the Tax Commissioner. You either pay the full amount owing, or if the business cannot pay the full amount, enter into a payment plan with the ATO. If you agree to a payment plan and do not meet the payments, the amnesty will no longer apply.

Keep in mind that the amnesty only applies to "voluntary" disclosures. The ATO will continue its compliance activities during the amnesty period so if they discover the underpayment first, full penalties apply. The amnesty also does not apply to amounts that have already been identified as owing or where the employer is subject to an ATO audit.

What do employers pay under the amnesty?

Normally, if an employer fails to meet their quarterly SG payment on time, they pay the SG charge (SGC) and lodge a Superannuation Guarantee Statement. The SGC applies even if you pay the outstanding SG soon after the deadline.

Under the quarterly superannuation guarantee, the interest component is calculated on an employer's quarterly shortfall amount from the first day of the relevant quarter to the date when the SG charge would be payable (not from the date the SG was overdue).

The ability to deduct SGC and the reduction in penalties under the amnesty could be significant for employers that have fallen behind with their SG obligations.

If SG is paid late, special provisions exist within the legislation to automatically protect employees from inadvertently breaching concessional contribution cap limits if the unpaid SG is paid to the Commissioner and then transferred to the employee's superannuation fund. Where the employer makes the payment directly into the employee's fund, the individual would need to apply to the Commissioner requesting the exercise of discretion to either disregard the concessional contributions or allocate them to another financial year.

What happens if you do not take advantage of the amnesty?

If an employer fails to take advantage of the amnesty and is found to have underpaid employee SG, they are required to pay the SGC which includes penalties of up to 200%. Outside of the amnesty period, the ATO has the power to reduce the penalty in whole or part. However, the legislation enabling the amnesty imposes tougher penalties on employers that do not voluntarily correct underpaid or unpaid SG by removing the ATO's capacity to reduce these penalties below 100%. In effect, the Commissioner loses the power for leniency even in cases where an employer has made a genuine mistake.

Where to from here?

Even if you do not believe that your business has an SG underpayment issue, it is worth undertaking a payroll audit to ensure that your payroll calculations are correct, and employees are being paid at a rate that is consistent with their entitlements under workplace laws and awards.

If your business has fallen behind on its SG obligations and is eligible for the amnesty, you need to start working through the issues now or contact us to work through the issues for you. There are several calculations that need to be completed and these may take some time to complete.

If your business has engaged any contractors during the period covered by the amnesty, then the arrangements will need to be reviewed as it is common for workers to be classified as employees under the SG provisions even if the parties have agreed that the worker should be treated as a contractor. You cannot contract out of SG obligations.

If a problem is revealed, you can correct it without excessive penalties applying under the amnesty. If you are uncertain about what award and pay rates apply to employees, the FairWork Ombudsman's website has a pay calculator or you can contact them online or call them on 13 13 94.

Pay Slip Requirements

Victorian Chamber of Commerce & Industry

Section 536 of the Fair Work Act 2009 (Cth) requires employers to give a pay slip to each employee "within one working day of paying an amount to the employee in relation to the performance of work".
The pay slip must be in a form and contain the content prescribed by the Fair Work Regulations 2009 (Cth). These requirements are outlined below.

Fair Work Inspectors may issue an employer with an infringement notice for failing to meet their record-keeping and pay slip obligations.

Regulations dealing with infringement notices

Fair Work Regulations 2009 – Section 558 (1) The regulations may provide for a person who is alleged to have contravened a civil remedy provision to pay a penalty to the Commonwealth as an alternative to civil proceedings. (2) The penalty must not exceed one-tenth of the maximum penalty that a court could have ordered the person to pay under section 546 if the court was satisfied that the person had contravened that provision. The maximum fines payable are:

- 6 penalty units or $1260 per contravention for an individual
- 30 penalty units or $6300 per contravention for a body corporate.

Pecuniary penalty orders

Fair Work Regulations 2009 – Section 546

Fair Work Inspectors may recommend the matter be heard before a court as conventions of pay slip requirements and record keeping can attract civil penalties under the Fair Work Act. The court might order the following penalties:

- 60 penalty units or $12,600 per contravention for an individual
- 300 penalty units or $63,000 per contravention for a corporation. For a serious contravention:
- 600 penalty units or $126,000 per contravention for an individual
- 3,000 penalty units or $630,000 per contravention for a corporation.

Pay Slip Form

Fair Work Regulations 2009 - Regulation 3.45 For paragraph 536 (2) (b) of the Act, a pay slip must be: (a) in electronic form; or (b) a hard copy.

Pay slips – Content

Fair Work Regulations 2009 - Regulation 3.45

1 For paragraph 536 (2) (b) of the Act, a pay slip must specify:

(a) the employer's name; and

(b) the employee's name; and

(c) the period to which the pay slip relates; and

(d) the date on which the payment to which the pay slip relates was made; and

(e) the gross amount of the payment; and

(f) the net amount of the payment; and

(g) any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement; and

(h) on and after 1 January 2010 - the Australian Business Number (if any) of the employer.

2 If an amount is deducted from the gross amount of the payment, the pay slip must also include the name, or the name and number, of the fund or account into which the deduction was paid.

3 If the employee is paid at an hourly rate of pay, the pay slip must also include:

(a) the rate of pay for the employee's ordinary hours (however described); and

(b) the number of hours in that period for which the employee was employed at that rate; and

(c) the amount of the payment made at that rate.

4 If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.

5 If the employer is required to make superannuation contributions for the benefit of the employee, the pay slip must also include:

(a) the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or

(b) the amounts of contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

6 In subregulation (5):
Contributions does not include a contribution in respect of a defined benefit interest (within the meaning of the Superannuation Industry (Supervision) Regulations 1994) in a defined benefit fund (within the meaning of the Superannuation Industry (Supervision) Act 1993).

The Victorian Chamber's team of experienced workplace relations advisors can assist members with a range of employment, human resources and industrial relations issues.

The experienced workplace relations consultants can also provide assistance to both members and non-members on a range of more complex matters for a fee-for-service. The consultants can, among other things, provide training to employees, conduct investigations and provide representation at proceedings at the Fair Work Commission.

For assistance or more information, please contact the Workplace Relations Advice Line on (03) 8662 5222.

What Does 1% Mean For Your Business?

David Hadley

What's the difference between water and steam? At 99 degrees water is merely hot, at 100 degrees it turns to steam and can move locomotives. Just one degree— a one percent change—makes the difference.

It's a great metaphor for business. It's the little things that get big results. A 1% improvement in each of your business's 4 profit drivers (price, variable costs, sales volume and fixed costs or enterprise overheads) can yield exponential improvements in net profit.

To increase revenue, most business owners focus only on getting new customers. They pay little regard to the customers they already have, and usually adopt the view that competition pressures leave them little control over price. They also believe that reducing costs is the way to build a profitable business.

The most profitable strategy is to aggressively price your products or services, elect to deal only with those customers who see and accept the value you deliver, do not allow customers (or competitors) who are price sensitive to dictate your pricing strategy, and monitor the productivity of your fixed cost resources.

At the end of the day, profit is one of the most important measures for the success of a business. Revenue does not pay the bills or give you the resources you need to grow—that comes from profit.

If you wish to know more about what 1% can do for your business please do not hesitate to contact your adviser at Green Taylor Partners.

Do you or your business need to be registered for Good & Services Tax (GST)?

Kathryn Hamilton

You must be registered for GST if you:

- run a business and your GST turnover is $75,000 or more ($150,000 or more for non-profit organisations)
- want to claim fuel tax credits for your business; or
- provide taxi travel.

To be registered for GST you will need to have an ABN.

If you are not registered for GST, you must check every month if your turnover for the year will exceed the $75,000 threshold. If you do exceed this threshold you have 21 days to register.

If your turnover is below the $75,000 threshold you can still register for GST.

Once registered you are required to do the following:

- work out if your income is subject to GST, GST-Free or input taxed. If they are subject to GST, you will need to include it in the price of your taxable sales
- prepare and provide tax invoices for sales and obtain tax invoices for business purchases
- lodge activity statements monthly or quarterly (or annually if turnover below threshold) to report sales and purchases during the period and the amount of GST collected or paid on these amounts. This will determine if you are entitled to a GST refund or required to pay GST to the Australian Tax Office (ATO).

If you do not want to report your GST quarterly, you can elect to pay GST by quarterly instalments and report your actual GST information on an annual GST return. This only applies to businesses with aggregated turnover of less than $10 million. If you have employee's, you are still required to report the pay as you go (PAYG) withholding to the ATO.

If you would like to register for GST or think you need to be, please contact us and we will be happy to help.

GTP Birthdays

December

- 8th December - Karen Grainger
- 23rd December - Ryan Schirmer
- 6th January - Matt Richardson
- 10th January - Jess Sluggett
- 15th January - Hannah McIllree
- 13th Febuary - Ross Laycock
- 16th Febuary - Emily Vettos
- 28th Febuary - Sue Olston

GTP Anniversaries

- 10th December - Peter Cramer (40 years)
- 17th January - David Hadley (20 years)
- 29th January - Jess Sluggett (12 years)
- 3rd February - Karen Grainger (17 years)
- 15th February - Ryan Schirmer (10 years)
- 16th February - Kathryn Hamilton (11 years)
- 19th February - Jodie Mills (19 years)

Rental property or main residence – which is best?

Peter Cramer

I recently had a discussion with a delightful person who was asking about what to do in relation to acquiring a second residential property – and whether to live in the existing property and rent the new one, or vice versa.

Background facts

The current property had been lived in from date of acquisition – so was the "main residence" of the taxpayer.

The property cost $400k and now has current market value of $500k (a $100k increase).

The loan for this property has been paid down to $250k.

When a main residence (that has been the main residence since acquisition – ie moved in as soon as practicable after acquisition or construction) is sold, the proceeds are tax free.

The new property proposed will cost $675k (including stamp duty and legal fees).

The new property will be better, larger, in a better location and more desirable.

It will be funded by a loan of $500k.

So, the questions were:

- What are the implications of moving into the new house and renting out the old one?
- "I've heard about negative gearing and I hear there are some tax benefits?"
- What is the best way to increase my wealth through this?

For a host of reasons, the answer was to continue to live in the existing residence and rent out the new one – if increasing one's wealth was the only objective (note – it rarely is!).

The benefits in continuing to live in the existing residence and rent out the new one are –

- The first one will be totally tax free when sold in the future as it always has been a main residence
- The tax savings will be much higher if renting out the new one. (See note below). There is approximately a $6,000pa tax saving in living in the existing residence and renting out the new one. Why? – because they can claim the interest on the new large loan on the new house and they can claim depreciation on the new fixtures and fittings (they are not second hand). You cannot claim depreciation on already used fixtures and fittings – they must be brand new!
- Note – you can claim interest on loans based on the purpose for the borrowing. As the new $500k loan was used for the new rental property, interest can be claimed in full, even if it is secured in part on the old house. It doesn't matter what a loan is secured over – it matters what the loan was borrowed and used for.
- Further note – if they rented out the old house and lived in the new house, they cannot claim any interest on the loan for the new house (even it is partly secured on the old house) because it has been borrowed for a private purpose – ie to live in.

So, clearly, they would be better off wealth wise by continuing to live in the existing house and renting out the new one.

If that is so obvious, why might they decide or wish to live in the new house instead?

- Because it is bigger, better and nicer!
- It might be closer to work or more central.
- Tenants might trash the new house or not treat it well.
- The main financial reason is that if the new property was going to grow significantly over the next, say, 5 years, and this house was always a stepping stone to another property, then if they moved into it from day one – it would be the new "main residence". When it was sold in 5 years for, say, $1,000,000, the $325k capital gain would be tax free. (But the sale of the old original one would be partly taxable as no longer main residence).

Note re possible rental tax position:

Tax position if rent out new residence

Rental income $550pw x 50 weeks less commission	$26,000
Depreciation deductions on new fixtures and fittings	$10,000
Capital write off on cost of construction (new)	$10,000
Interest on loan ($500k x 4%)	$20,000
Rates, Insurance, other	$4,500
Net loss for tax purposes	($18,500)
Tax saved due to tax loss (each year)	**$ 6,400**

Tax position if rent out old residence

Rental income $385pw x 50 weeks less commission	$18,750
Depreciation deductions on new fixtures and fittings	0
Capital write off on cost of construction (new)	$6,250
Interest on loan ($250k x 4%)	$10,000
Rates, Insurance, other	$3,750
Net loss for tax purposes	($1,250)
Tax saved due to tax loss (each year)	**$ 432**

In conclusion, generally living in the old house and renting out the new one will result in significantly better tax savings – which increase wealth. However – one must still consider the potential capital growth of both properties to determine whether tax free gains from sale of main residence will over-ride the year to year tax benefits.

There is much to consider, and the decision will involve guesswork as to the future!

One must also consider the cash flow implications of funding two houses and what can be afforded. Plus, one must also consider the implications of job loss or sustained periods of illness.

(Disclaimer – this has been a financial commentary. Life doesn't often revolve around financial and wealth creation decisions – usually "what I like" is the overriding factor!)

Steps to expand your property portfolio

BMT Insiders

Deciding to invest in property is one of the most significant decisions a person can make.

Once on the property ladder, it can be argued that it's just as important to consider when, where and how to expand your property portfolio to avoid risk and broaden the opportunity for success.

If you're considering this, below are some simple steps to be aware of.

Do your research on the property market

Whether you're looking to buy your first investment property or expand your portfolio, it's important to do your research.

Consider economic factors and capital growth potential in up-and-coming areas with lower entry costs and forecasting high growth.

Look at Development Applications (DAs) to determine any roads and infrastructure projects including new schools, commercial developments, parks and any Council re-zoning submissions as these are likely to attract renters to the area. BMT Tax Depreciation's online portal MyBMT https://mybmt.bmtqs.com.au has a handy 'Research and insights' tool allowing you to view planning applications in suburbs where you may want to invest.

It's important to also consider locations with a range of public transport options, nearby employment opportunities for tenants and assess rental yields and vacancy rates. Awareness of these factors can help determine future property income potential to cover expenses involved in purchasing and holding the property.

Explore additional factors that may influence your buying decision including your budget, return on investment expectations, type of loan you qualify for and depreciation deductions you may be entitled to. Within MyBMT, take advantage of PropCalc which can help you calculate the cash flow of owning any property. In its projection of future potential cash flow, PropCalc will consider potential depreciation deductions once a property is income producing to help you make an informed decision.

Determine your acceptable risk

What level of risk are you willing to accept? All property investment comes with financial risk and knowing your limits can go a long way towards alleviating potential stress and ensuring you don't over-extend your financial obligations.

Consider potential changes in economic factors, including interest rates, or any repairs and maintenance that may be required on the property. This will ensure you aren't leaving yourself without a buffer if unforeseen circumstances emerge.

Choose diverse locations and property options

If you're an investor wanting to minimise risk, consider diversifying your property portfolio to expand your reach and spread the financial risks across a broader range of assets.

During FY 2018/19, BMT found 74 per cent of investors purchased an investment property within metropolitan areas/ capital cities compared to 26 per cent who own regional investment properties.

BMT found most investors prefer to stay within their comfort zone, with 92 per cent of those living in metropolitan areas also purchasing an investment property locally, compared to 8 per cent who invested in regional areas.

In contrast, regional investors are more likely to invest further afield, with 64 per cent of those living in regional areas purchasing an investment property elsewhere, as 36 per cent then invested in metropolitan areas.

Property investor trends - metropolitan vs regional	
92%	Living in a metropolitan area + investing in a metropolitan area
8%	Living in a metropolitan area + investing in a regional area
64%	Living in a regional area + investing in a regional area
36%	Living in a regional area + investing in a metropolitan area

One way investors can diversify is by selecting properties in several locations. For example, you might already own a property in Perth where property values fell by -2.1 per cent in the three months to June 2019 according to CoreLogic.

If your only property was in Perth and you sold it during this time, you're likely to have made a loss. However, by investing in other locations that are performing better and achieving capital growth, you can create a financial buffer and reduce your risk.

Alternatively, another way to diversify is to consider broadening the types of properties you invest in. Most property investors tend to focus on residential rental properties, however commercial properties are also worth considering as they offer a number of benefits, as explained in our article 'Why you should invest in commercial property' https://www.bmtqs.com.au/bmt-insider/why-invest-in-commercial-property.

Investors owning both residential and commercial properties minimise their risk of a single economic factor or downturn in one area of the property market affecting their entire portfolio.

However, some consider commercial properties to carry greater risk due to fluctuating economic factors and possible lengthy vacancy rates between tenancies.

What happens if you have a different residence to your spouse

Karen Grainger

Commonly, spouses have one main residence in which they live together. But there may be the case when they live apart, commonly for work purposes.

In this case special CGT rules apply regarding the treatment for the main residence exemption.

A special section of the CGT law requires an individual and their spouse to choose one of the dwellings as the main residence for both spouses OR nominate the different homes as each individual spouse's main residence.

In choosing the first option, the house chosen to be the main residence will be exempt from capital gains tax if sold, but the other house would be subject to capital gains tax.

If choosing the second option, the way the main residence exemption is applied is different.

Where a spouse's interest in the nominated dwelling is 50% or less, the nominating spouse will be entitled to an exemption on that interest for the whole period where the spouses have different homes.

Where the relevant interest is greater than 50%, the nominating spouse will only be entitled to an exemption in respect of that interest for half the period where the spouses have different homes.

An example: Dan and Harriett are married and jointly own a house in Perth they purchased together and lived together for 10 years. They then purchased together a property in Sydney for Harriett to live in for 4 years while working in Sydney to set up a new branch for her employer. They owned this property 80% Harriett and 20% Dan. After the 4 years, Harriett moved back to Perth and they sold the Sydney property. Harriett chooses this as her main residence for the period she resides in Sydney and Dan chooses Perth in the same period.

For the sale of the Sydney property, Harriett will apply the main residence to half of her share of the gain on sale and pay tax on the other half (before applying the CGT 50% discount). Dan will pay tax on all of his share of the gain on sale (before applying the CGT 50% discount). This is because he never treated the property as his main residence.

For more information on this situation, please contact your trusted adviser at Green Taylor Partners.

GTP Tid Bits

- Congratulations to Georgia Francis and Jack Muegel on the annoucement of their engagement.

No longer able to claim deductions for vacant land

Peter Cramer

Recent legislation has been passed that prevents taxpayers from claiming a deduction for expenses incurred for holding vacant land.

Previously, if you bought vacant land with the intent to build a rental property on it, you may have been able to claim tax deductions for expenses incurred in holding the land such as loan interest, council rates and other ongoing holding costs.

From 1/7/19, this no longer applies – even if you owned the land before 1/7/19!

Remember the changes to rental property travelling? You cannot claim travelling expenses for travelling to a rental property (no matter how legit!). These changes are similar – (ie) you cannot claim – no matter what!

The good news is that this does not include farming land if used in a primary production business.

Furthermore, if the vacant land is leased on an arms-length basis to a bona-fide lessee for a business purpose, then land costs would still be deductible (eg rates, interest, public liability insurance, water etc).

There is a "substantial test" involved here. If the land has a building on it (so the land is not vacant) but the building is not substantial, then these rules will still apply. The Bill supporting the Legislation suggests a silo or a shearing shed would be substantial – but a garden shed would not be.

So – be aware that if you are planning to purchase vacant land for the purpose of building a rental property on it, it is highly likely you will not be able to claim any deductions for the holding costs of that land until the rental property is completed and available for rental.

Important Dates

- **21st December** – Lodge and pay November 2019 monthly business activity statement
- **21st January** – Lodge and pay December 2019 monthly business activity statement
- **21st February** – Lodge and pay January 2020 monthly business activity statement

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